

# Coordination & Engagement on Issues Related to the JH Baxter Facility

## COMMUNITY ENGAGEMENT CORE TEAM

### Meeting 9

November 2, 2021

### Facilitator's Summary

[Edits received from LCPH & LRAPA]

ACTION	WHO	BY WHEN
Send calendar invite for next Core Team meeting on November 16 <sup>th</sup> at 6:00pm.	DSC	ASAP
Review the community aspirations and goals and note those that can currently be used, while also providing specific statutes that present barriers or prevent implementation (and the processes by which they could be changed).	Core Team Agencies	ASAP

**Participants for all or part of the meeting:** Ali and Jeremy Aasum (Community Member/BT), Arjorie Arberry-Baribeault (BT), Lisa Arkin (BT), Robin Bloomgarden (Community Member/ABC), Mary Camarata (DEQ), Dylan Darling (DEQ), David Farrer (OHA), Courtney Fultineer (OHA), Don Hanson (DEQ), Max Hueftle (LRAPA), Ryan Josef-Maier (Community Member/BT), Travis Knudsen (LRAPA), Mike Kucinski (DEQ), Kelby Land (LCPH), Diana Rohlman (OSU), Susan Turnblom (DEQ), Sarah Wheeler (DEQ), and Jon Wilson (CoE).

**Facilitation Team:** Donna Silverberg and Emily Stranz, DS Consulting.

**Welcome and Introductions** - Facilitator, Donna Silverberg, welcomed the group to the 9<sup>th</sup> Core Team meeting. Group members introduced themselves and their affiliation. Participants included West Eugene community members, and representatives from the Active Bethel Community (ABC), Beyond Toxics (BT), City of Eugene (CoE), Oregon Department of Environmental Quality (DEQ), Lane County Public Health, Lane Regional Air Protection Agency (LRAPA), Oregon Health Authority (OHA), and Oregon State University (OSU).

**Follow-Up From Last Session** - Per DS Consulting's suggestion, the Core Team confirmed an expedited process for approving meeting summaries: Moving forward, Emily Stranz will send draft meeting summaries within a week of the meeting and ask for suggested edits within a week. Once suggested revisions are incorporated, a draft will be sent showing tracked changes and Core Team members will be asked to share back any concerns with the edits within a specified time. Pending no (or addressed) concerns, the summary will be finalized and posted. Review steps and timelines will be provided in Emily's email.

Travis Knudsen, LRAPA, reported that the agencies had been talking about inviting those residents who had soil samples taken on their properties to the Core Team meetings. He wondered whether asking community Core Team members to reach out to them would be beneficial. The intention of inviting the neighbors would be to hear their thoughts and concerns and provide an opportunity to address them. Community Core Team members felt that it would be best to reach out to the JH Baxter neighbors after the soil sampling results are in, otherwise they may just be frustrated. Additionally, they noted that the Core Team was designed to be an intentional group of community members and agency representatives working to focus on issues and discuss how and when information is shared more broadly. Bringing more community members in now could impact the rapport and shared understandings of this group. It was also noted that the general public may engage in the monthly Beyond Toxics meetings, and that Travis or

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Mike Kucinski, DEQ, could join the Beyond Toxics community meetings to connect with the broader community.

Mike Kucinski informed the group that EPA's Environmental Justice program will be hosting an online session to learn about EPA Region 10 air monitoring grants. The session is on November 3 at 10:00 am. Funding from the American Rescue Plan (ARP) will be available to tribes, states, and local air agencies to purchase outdoor air quality monitors. EPA Region 10 staff will give an overview of air monitoring, explain regulatory versus non-regulatory monitoring, air monitoring equipment, sensor technologies, and how to use and interpret air quality data. Following a summary of ARP air monitoring funds, EPA will hear from Tribes and Tribal Consortia about their interests and needs with air quality monitoring.

**Presentation of Community Aspirations and Goals** - Arjorie Arberry-Baribeault, Jeremy Assum, and Ryan Josef-Maier, Beyond Toxics presented a set of community-based aspirational and specific goals for working collaboratively on environmental justice issues. While the goals have the potential to stretch beyond the JH Baxter effort, the current focus is on JH Baxter. Arjorie, Jeremy and Ryan explained that these goals are a result of community members learning more about how they are impacted by the environment, the processes for regulating facilities, concerns around the lack of impact of past regulation, and the desire to work with the agencies to make real changes. Please see the *Community Coalition Goals and Aspirations for Environmental Justice and Health* below.

Agency representatives were thankful for the community members developing and presenting their goals and were eager to see them in writing to allow for further review and consideration. Many noted that the aspirations and goals sounded like good efforts to work together. From the initial review, there may be some goals and aspirations that are outside of current rules, statutes, and authorities under which the agencies must operate; for example, the LRAPA Citizen Advisory Committee make-up is specified in state statute ORS 468A.130 and would need to be revised to change the makeup of the committee. Agency representatives said they would identify specific state statutes, as well as any other obstacles and complications that would need to be overcome in order to achieve the goals and aspirations.

Max Hueftle, LRAPA, noted that the Cleaner Air Oregon (CAO) rules have a provision that allows sources to conduct ambient monitoring for 12 months. Gathering the data would delay the risk assessment results, however, if there is community interest in the data, then there is an avenue to get it. [Note: Max reviewed the relevant rules and provided the following clarification: The CAO rules under [OAR 340-245-0230](#) - Toxic Air Contaminant Monitoring Requirements allow facilities to conduct at least 12 months of ambient air monitoring. Facilities have this option to use at least 12 months of ambient monitoring to update their risk assessment only after they've conducted a Level 3 or 4 Risk Assessment as specified in [OAR 340-245-0050\(1\)\(c\)\(B\)](#). So, if the source chose to conduct ambient monitoring for at least 12 months, it wouldn't delay the risk assessment results, but rather the rules allow facilities to use ambient monitoring data to update their risk assessment.]

Community members noted that they are engaging with other local leaders to share their aspirations and goals, and to discuss how regional government might support them moving forward.

**Small Group Discussions & Large Group Report Back** - The Core Team broke into small groups to discuss the following prompts related to the Community Aspirations and Goals:

1. How could your agency use the Aspirational Goals or Community Specific Recommendations to inform new action regarding J.H. Baxter?
2. How could the Precautionary Principle be employed with regard to protecting the community from pollution from J.H. Baxter?

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Core Team members reported back to the large group about insights, observations, and suggestions for next steps. The following was shared:

- Regarding how to apply the precautionary principle to JH Baxter efforts: Agency representatives suggested that identifying smaller precautionary steps might be a way to make progress.
    - Some community members expressed that applying the precautionary principle would mean causing JH Baxter to cease operations until they can demonstrate that they are operating safely and within their permits.
  - Community members urged the agencies to take precaution when reviewing JH Baxter self-reported data and monitoring, noting that there is a history of non-compliance and perceptions of misreported information.
  - The agency representatives were asked to utilize the community aspirations and goals to help guide their efforts as much as possible, recognizing that currently there are obstacles to fully implementing some of the community's requests.
  - It was noted that system change IS possible, even to state statutes and the state constitution. There are specific processes to do so that the agencies can make clearer in the future.
  - In cases where agencies are constrained by law from acting on the goals and aspirations, the agencies could provide information on the relevant statutes that prevent action and the processes used to change them.
  - DEQ noted that they would like to work with community members to identify more community-based people who could serve on DEQ Rulemaking Advisory Committees (RAC). These are committees that help the agency draft rules and community voices are needed.
  - LCPH noted that the clear goals and aspirations will help the agency to prioritize all they can do to be helpful. Kelby also noted that LCPH will soon receive additional funding for staff to focus on climate change and related environmental efforts. The goals and aspirations can be a helpful tool when creating this new position.
- **Action:** The agency Core Team members will review the community aspirations and goals and note those that can currently be used, while also providing specific statutes that present barriers or prevent implementation (and the processes by which they could be changed).

Donna thanked the Core Team for their engagement and commitment to listen to each other. She noted that the next Core Team meeting will be on November 16<sup>th</sup> from 6:00-7:30pm and will consist of a presentation of the Oregon State Cancer Registry (OSCaR) data analysis results. With that, the meeting was adjourned.

*This summary is respectfully submitted by the facilitation team at DS Consulting. Suggested edits are welcome and can be emailed to [emily@dsconsult.co](mailto:emily@dsconsult.co).*

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Draft 9/18/2021

## **COMMUNITY COALITION GOALS AND ASPIRATIONS FOR ENVIRONMENTAL JUSTICE AND HEALTH**

### OUR BACKGROUND

Socioeconomic data combined with environmental quality data provides a comprehensive understanding of West Eugene as an environmental justice community. The West Eugene residential area contains moderate to higher rates of economic and social vulnerability compared to other census tracts in the city. According to the US Census, in 2019, the median household income of 97402 households was \$47,168 and approximately 17% of the households live in poverty (compared to the 97405 area where the median income level is \$69,200 and 5.6% of households live in poverty). West Eugene is home to an industrial corridor made up of 35 out of a total of 36 manufacturing companies located within the city limits. All together, 696,526 pounds of toxic chemicals were released into the environment of West Eugene in 2020--that's 99% of all chemicals being released in the city of Eugene (City of Eugene Toxics Reporting Program, 2020). Homes are side-by-side with major polluters due to historical inequities in land use zoning laws, a problem that still persists. These same neighborhoods are also directly downwind of an additional nine heavy industrial manufacturers located just past the city limits including an chemical adhesives plant, a second wood treatment (creosote) plant, a sawmill, an engineered laminated veneer/plywood manufacturer and a biomass plant. This neighborhood is also subjected to transportation pollution, including diesel particulate from truck traffic. The Bethel neighborhood is bisected by Highway 69 and bordered by Hwy 99 and Hwy 126. The Union Pacific rail yard runs adjacent to the Trainsong neighborhood along the northeast boundary. This rail yard has significant locomotive activities, which is a source of diesel particulate (soot) emissions into nearby neighborhoods.

There are reports from organizations and agencies that rates of childhood asthma and cancer are higher than expected. In 2019, the Oregon Department of Environmental Quality (DEQ) took samples of surface water and soil in the Bethel neighborhood. Dioxin and pentachlorophenol were detected in soil and surface water adjacent to nearby residential neighborhoods. Although no contaminants were found that would pose an immediate, short-term threat to human health or the environment, evidence has compelled agencies to conduct more investigations. The DEQ also issued \$223,000 in civil penalties to JH Baxter, a creosote wood treatment facility located less than one block from a densely populated neighborhood. The public's discovery of years of egregious and intentional air and hazardous waste permit violations combined with detections of dioxin and pentachlorophenol near homes, has galvanized the neighborhood. This vulnerable community stands poised to take leadership towards the goal of having meaningful participation in the implementation and enforcement of environmental laws.

### OUR ASPIRATIONAL GOALS FOR CLEAN AIR

According to the Environmental Protection Agency, environmental justice is achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, work, learn and play. In addition, true environmental equity requires that the benefits of clean air, safe surface and ground water and non-toxic soils be enjoyed by all, and not reserved for people with the privilege, the political clout and/or income to keep pollution far from their backyards.

As residents of West Eugene, we believe that several changes must occur in the systems designed to protect us from harmful effects of pollution to the air before environmental justice has been achieved for us and for our neighbors in this respect.

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## The Community Requires That:

1. Present and future residents of West Eugene, especially children, elderly disabled and medically vulnerable and people of color, have clean air in their homes and enjoy the benefits of clean air, water and soils throughout their community.
2. Communities are empowered by giving residents of impacted communities a full seat at the table when it comes to decisions on environmental and land use policies, permitting, fines and other punitive measures responding to industry noncompliance.
3. The City of Eugene prioritizes the issues concerning pollution in West Eugene neighborhoods and rejects historical patterns of neglect and isolation to work toward community well-being.
4. Fines and other punitive actions responding to industry noncompliance with regulations are substantial enough that they fully mitigate the entire impact of the pollution and serve to effectively prevent future noncompliance.
5. Regulatory agencies are trustworthy, transparent and accountable to the best interests of the public and not focused on what works for polluters.
6. Regulatory agencies work in concert across agency boundaries and disciplines to achieve the highest standards of clean air, clean water and soils for public health.
7. Policies and practices are built upon the Precautionary Principle, which prevents harm from new or existing chemicals when credible evidence of harm exists, even when some uncertainty remains regarding the exact nature and magnitude of the harm.

## Community-Specific Recommendations:

A. COMMUNITY EMPOWERMENT: Residents of communities impacted by pollution should constitute a majority of bodies like the LRAPA Citizen Advisory Board. LRAPA should take responsibility to improve the goals and functionality of the advisory committee, provide adequate information to communities, and cultivate relationships with the community that would facilitate recruitment of residents to the board.

B. COMMUNITY EMPOWERMENT: A community advocate and liaison should be appointed who can assist community members in surmounting barriers to participation such as: availability to attend meetings, technical and legal expertise, outreach and polling, human rights and following the development of policy and legislation.

C. COMMUNITY EMPOWERMENT: Reporting gaps in the Eugene Toxics Right to Know Ordinance, a voter-approved program administered by the Fire Marshall and City of Eugene, should be identified and mitigated so complete information on the kind and quantity of toxins in communities is easily available to residents.

D. ENVIRONMENTAL JUSTICE: Regulatory agencies collecting fines from polluters should require the polluter to invest those funds back into community-approved beneficial environmental health projects in the impacted community.

E. ENVIRONMENTAL JUSTICE: To support improved air quality in pollution-impacted communities, stove change-out programs should be expanded and an air purifier give-away program should be instituted for low-income residents.

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F. INDUSTRY ACCOUNTABILITY: In the case of risk from emergency fossil fuel or chemical releases, the polluter should provide proof of insurance and/or carry a risk bond to ensure that the costs of repairing damage resulting from any catastrophic event is paid for by the polluter and not by neighbors and taxpayers.

G. INDUSTRY ACCOUNTABILITY: Require all facilities applying for an air pollution discharge permit under Cleaner Air Oregon to conduct fence-line monitoring or continuous stack emissions monitoring, carried out by LRAPA or a third party, prior to having their permits approved.

H. REGULATORY TRANSPARENCY: Key data, such as effective air monitoring, air and water emission inventories and air toxics health benchmarks, should be jointly compiled and analyzed by local and state regulatory agencies and presented to the public in a format that is easy to access and understand; lack of funding should be addressed and rectified, so it does not excuse regulatory agencies from providing this vital information.

I. REGULATORY TRANSPARENCY: LRAPA must prioritize their funding to put a mobile air toxics monitor in hotspot areas around our community.

J. REGULATORY TRANSPARENCY: LRAPA must commit to continuous air toxics monitoring, or at least more frequent monitoring than once every six days, in communities known to be impacted by pollution.

K. REGULATORY TRANSPARENCY: LRAPA should work to help the public understand air quality permits by using clear and readily accessible language in addition to walking through permits before any public hearings.